

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Jonathan Antonio Dendy,)	
)	
Plaintiff,)	Civil Action No.: 6:15-cv-03041-JMC
)	
v.)	ORDER AND OPINION
)	
Christopher Hoyes; Mark McCoy; MD)	
Cannon; and Sergeant Epps,)	
)	
Defendants.)	
_____)	

Plaintiff Jonathan Dendy (“Plaintiff”), proceeding pro se, brought this action seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff files this action *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff alleges that he was wrongfully arrested and falsely imprisoned as a result of Defendants’ actions. (ECF No. 1 at 4). Plaintiff seeks damages in the form of living expenses and lost wages. (ECF No. 1 at 5).

This matter is before the court pursuant to 28 U.S.C. § 1915(e)(2)(B), which requires the court to dismiss civil actions filed *in forma pauperis* if they are frivolous or fail to state a claim upon which relief can be granted. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Kevin McDonald for a Report and Recommendation. Defendants filed a Motion for Summary Judgment along with a Memorandum in Support on November 12, 2015. (ECF No. 26). On November 13, 2015, the Magistrate Judge entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedure and the possible consequences if he failed to respond adequately. (ECF No. 28). Subsequently, on February 17, 2016, the Magistrate Judge entered an order extending the deadline for Plaintiff to file a response to Defendants’ motion. (ECF

No. 31). No response was filed.

On March 15, 2016, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending the court dismiss the petition for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). (ECF No. 35). The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation, or recommit the matter with instructions. *See* 28 U.S.C. § 636 (b)(1). Objections to a Report and Recommendation must specifically identify portions of the Report and the basis for those objections. Fed. R. Civ. P. 72(b). “[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Plaintiff was advised of his right to file objections to the Report. (ECF No. 35 at 3). Plaintiff was required to file objections by April 1, 2016. To date, Plaintiff has not filed any objections to the report, nor has Plaintiff filed a response to Defendants’ motion for summary judgment. Accordingly, this court has reviewed the Report of the Magistrate Judge and does not find clear error.

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 35). Defendants' Motion for Summary Judgment (ECF No. 26) is **DENIED** as moot. It is therefore **ORDERED** that Plaintiff's action (ECF No. 1) is **DISMISSED** with prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

May 16, 2016
Columbia, South Carolina